

REMARKS

In response to the Office Action dated March 9, 2004, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Applicants respectfully request that Examiner Davis considers references cited on the attached sheet 2 of 2 of PTO-1449 (previously filed on February 23, 2001) and co-pending applications identified in the attached Identification of Co-Pending Applications (previously filed on March 27, 2002) that were filed before issuance of the Office Action.

In the Office Action mailed March 9, 2004, claims 1-56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hendrey et al., U.S. Patent No. 6,647,269 (hereinafter Hendrey) in view of Heinonen et al., U.S. Patent No. 6,418,308 (hereinafter Heinonen). With respect to independent claims 1, 16 and 35, the Office Action conceded that Hendrey fails to disclose a survey as recited, but asserted that such deficiency could be cured by Heinonen's teaching of conducting an opinion poll. With respect to independent claims 30 and 47, the Office Action additionally asserted that use of at least three antennas to determine location (claim 30) and determination of the wireless device's location at the wireless device (claim 47) are well known and took official notice. No additional reference was provided to support the assertion. To the extent this rejection might still be applied to claims presently pending in this application, it is respectfully traversed.

Applicants reserve the right to present evidence that the claimed invention of the present application was conceived prior to July 25, 2000, which is earlier than August 7, 2000, the

provisional filing date of Hendrey. Such evidence is not presented at this time because Applicants believe the following remarks are sufficient to overcome the rejection of record.

Applicants believe that the Office Action has not established a prima facie case of obviousness, which requires three criteria be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Applicants believe that the rejection of record does not satisfy any of the three criteria.

Regarding the first criterion, Applicants respectfully submit that one of ordinary skilled in the art would not be motivated to modify Hendrey to arrive at the present invention because of the fundamental differences between them. For example, Hendrey relates to a system that generates an advertisement targeting a user of a mobile unit after the location information of the mobile unit is received by the system. As stated in its Abstract, the Hendrey invention uses “[a]ccurate location information about a mobile telecommunication device . . . to generate advertising content responsive to a user approaching the location of business.” Throughout its description, it is clear that the mobile telecommunication device’s location is known before the advertising content is generated in Hendrey. For example, in column 4, lines 27-44 (emphasis added), Hendrey teaches that:

Advertising tracking system 105 further comprises a location-sensitive advertising generation subsystem 131 that is capable of generating relevant advertising content given the location of a user and the business(es) relevant to that location. For example, if a particular user is close to a store having a sale that

includes goods typically purchased by that user, generation subsystem 131 may create an advertisement stating that a particular set of goods relevant to the user is on sale at the relevant nearby store. The determination of when to send advertisements may be based on a profile associated with each user. The profile may specify the user's interests, types of advertisements he or she desires to receive, times of day that the user does/does not want to receive advertisements, and like information. The distance within which a MU must be with respect to a store before an advertisement is fired to the MU may be any predetermined distance, for example fifty meters, and may vary by MU, by store, or the like.

Further, in column 5, lines 25-28 (emphasis added), Hendrey provides:

Once a prospect has been identified, Step 202 uses location-sensitive advertising content generation subsystem 131 to create a tailored advertising message responsive to the prospect's location, and send it via telecommunication infrastructure 120 to the prospect's MU 110.

The present invention, on the other hand, broadcasts a survey or query to unknown users and then receives responses to the survey from the users, as recited in each of independent claims 1, 16, 30, 35 and 47. Accordingly, Applicants believe one of ordinary skilled in the art would not be motivated to modify Hendrey to broadcast advertising contents prior to knowing the location information of the users. Such modification is clearly contrary to the intent of Hendrey, which is to create tailored advertising message responsive to the prospect's location.

Second, even if Hendrey is modified by Heinonen as suggested in the Office Action, Applicants contend that there is no expectation of success. Indeed, the effectiveness and advantages of Hendrey would be lost. As stated in Hendrey, in column 8, lines 4-11 (emphasis added):

Among the benefits of this invention is the flexible ability to select one or more callees in a population of MU users based on location information, and generate advertisements responsive to location and other filtering factors. This provides advertising content for proximate businesses or businesses otherwise related to a specific location that is delivered just when the user of the MU is most likely to respond to the advertisement.

Thus, broadcasting a survey to unknown users of the MU would not achieve the benefits expected in the Hendrey reference.

Regarding the third criterion, Applicants do not believe the "response" recited in each of independent claims 1, 16, 30, 35, and 47 is taught or suggested by Hendrey or Heinonen.

Relevant portions of these independent claims are reproduced below for convenience of the Examiner:

- Claim 1: "a location system in communication with the wireless device and the location server, . . . wherein the location system generates a response containing location information pinpointing the location of the wireless device when the wireless device receives the survey";
- Claim 16: "generating a response for each of the plurality of wireless devices that receives the query, the response comprising location information generated by a location system";
- Claim 30: "forming a response that comprises the device position coordinates";
- Claim 35: "generating a response to the initial query, wherein the response comprise location information and identity information related to a wireless device generating the response"; and
- Claim 47: "receiving a plurality of responses to the query from the wireless devices, wherein a response from each of the wireless devices comprises location information pinpointing the location of the wireless device when the wireless device receives the query."

Thus, neither Hendrey nor Heinonen teach or in any way suggest broadcasting a survey or query prior to knowing the location of wireless devices. Accordingly, Applicants believe all the rejections of record should be withdrawn and all pending claims be allowed.

In view of the foregoing all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is

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desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicants' undersigned representative at the number listed below.

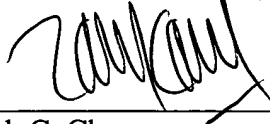
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Respectfully submitted,

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Attachments: (1) Sheet 2 of 2 PTO-1449 filed on February 23, 2001
(2) Identification of Co-Pending Application filed on March 27, 2002

PCC:kmh